THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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WRIT PETITION NOs :16267 and 16947 of 2005

Dated : 12.09.2005

Between:

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W.P. No.16267 of 2005

1. Government of Andhra Pradesh, represented by the Secretary to

Government, Finance (Pension-I) Department, A.P. Secretariat,

Hyderabad and another

..... PETITIONERS

AND

1. G. Narasimha Murty and another. ..**RESPONDENTS**

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W.P.No.16947 of 2005

1. Government of Andhra Pradesh, represented by the Secretary to

Government, Finance (Pension-I) Department, A.P. Secretariat,

Hyderabad and another

..... PETITIONERS

AND

Shri P. Mallikarjuna Rao, Asst. Engineer, Plot No.143, Ayodhyanagar, Kapra, ECIL Post, Hyderabad.

.....RESPONDENT

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WRIT PETITION NOs :16267 and 16947 of 2005

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COMMON ORDER: (per Honourable Smt. Justice T. Meena Kumari)

These writ petitions are filed seeking a direction, in the nature of writ of Certiorari, to set aside the common order of the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A.No.4275 of 2003 and 5054 of 2003, dated 23-02-2005.

The respondents in both the writ petitions are the applicants before the Tribunal. The status of the parties will be referred to as arrayed in the above O.A.

Since the issue involved in both the writ petitions is one and the same and they arose out of a common order, both the writ petitions are being disposed of by a common order.

The applicants worked in the Irrigation and Command Area Development Department. As per the G.O.Ms.No.491
dated 11-12-1991, they were absorbed in the Electronic Corporation of India Limited (ECIL) Hyderabad, which is under the control of Government of India with effect from 01.08.1987 and they retired from service on 31-07-1987. The case of the applicants is that the payment of commutation value of pension was

made in the year 1992 after issuance of G.O.Ms.No.491 dated 11-12-1991, on the basis of date of retirement viz., 01-08-1987, and the inaction of the respondents for restoration of 1/3rd of the commuted value of pension after 15 years from the date of retirement, is questioned before the tribunal by way of filing O.A.Nos.4275 of 2003 and 5054 of 2003.

The Tribunal having observed that the commutation of pension was based on the date of retirement i.e. 01-08-1987 and the applicants have not been given any pension for the intervening period for nearly five years i.e. up to 1992 and therefore, they are entitled to restoration of 1/3rd pension from the date on which the commutation of pension was calculated, but not on the exact date of payment, allowed the applications and directed the respondents to restore the pension of the applicants taking the date of the retirement into consideration from 01-08-1987 and fix the pension of the applicants. Hence, the writ petition.

Heard both the learned counsel.

The learned Government Pleader appearing for the writ petitioners contended that the applicants were absorbed from 1.8.1987 in ECIL in terms of the orders issued in G.O.Ms.No.491, dated 11.12.1991. He further contends that since the crucial date of absorption has been finalized in the year 1991 only on the representation of the individuals, even as per G.O.Ms.No. 168 and as per Rule 18 of A.P. Civil Pension Commutation Rules 1944, the benefit of restoration of commuted portion of pension shall be given only after completion of 15 years from the date of retirement and in the present case, the effective date is September, 1992. Therefore, the order of the Tribunal is not sustainable and is liable to be dismissed.

On the other hand, the learned counsel for the applicants contended that the Tribunal has rightly observed that the applicants are entitled for the 1/3rd of the commuted pension and there is no need of interference by this Court.

We have perused the material available on record.

In this regard, the fact that remains to be undisputed, is that the applicants retired from service on 31.7.1987 and their commutation was calculated in the year 1992 as per G.O.Ms.No:491, dated 11.12.1991. As per the Pension Rules,

the retired employee shall be paid the commutation amount, in case he desires to commute the amount from out of the pension. In the instant case, the commutation amount was calculated and paid to the applicants five years after their retirement, but that cannot be a ground to calculate the date of commutation from the date of payment as rightly observed by the Tribunal.

In view of the admitted facts and in the light of the Civil Pension Rules, we have no hesitation to hold that the Tribunal is justified in allowing the claim of the applicants and as such, the reasoning assigned by the tribunal, which is clear and cogent, does not warrant any interference by this Court. Hence, we see no merits in these writ petitions and the same are liable to be dismissed.

Accordingly, both the writ petitions are dismissed. No order as to costs.

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Justice T.Meena Kumari

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Justice P. Lakshmana Reddy

Dated: 12th September, 2005.

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